

UCI Anti-Doping Tribunal

Judgment

case ADT 03.2021

UCI v. Ilya Davidenok

Single Judge:

Prof. Ulrich Haas (Germany)

Aigle, 23 December 2021

I. INTRODUCTION

1. The present Judgment is issued by the UCI Anti-Doping Tribunal (hereinafter referred to as “the Tribunal”) in application of the UCI Anti-Doping Procedural Rules in force in 2021 (hereinafter referred to as “the ADT Rules”) in order to decide whether Mr Ilya Davidenok (hereinafter referred to as “the Rider”) has violated the UCI Anti-Doping Rules as alleged by the Union Cycliste Internationale (hereinafter referred to as “the UCI” and, together with the Rider, “the Parties”).

II. FACTUAL BACKGROUND

2. The circumstances stated below are a summary of the main relevant facts, as submitted by the Parties. Additional facts may be set out, where relevant, in connection with the legal discussion that follows. While the Single Judge has considered all the facts, allegations, legal arguments and evidence submitted by the Parties in the present proceedings, the Judgment refers only to the necessary submissions and evidence to explain its reasoning.

A. The UCI

3. The UCI is the association of national cycling federations and a non-governmental international association with a non-profit-making purpose of international interest, with a legal personality in accordance with Articles 60 et seq. Swiss Civil Code and according to Articles 1.1 and 1.2 of the UCI Constitution.

B. The Rider

4. The Rider is a professional road cyclist of Kazakh nationality. At the time of the alleged anti-doping rule violation (hereinafter referred to as “ADRV”) the Rider was a professional road cyclist affiliated to the Kazakhstan Cycling Federation (hereinafter referred to as “KCF”). He was, thus, a License-Holder within the meaning of the UCI ADR 2021.
5. The Rider has been previously sanctioned by the UCI with a period of ineligibility of two years starting on 16 October 2014 as a result of an ADRV for presence of Anabolic Androgenic Steroids in urines samples collected on (i) 11 and 16 July 2014 at the occasion of the Tour of Qinghai Lake; and on (ii) 25 and 27 August 2014 at the occasion of the Tour de l’Avenir. The Rider’s period of ineligibility came to an end on 16 October 2016 and he resumed competition.
6. From 1 January 2019 to 31 December 2019, the Rider was under contract with the UCI Continental Team Shenzhen Xidesheng Cycling Team. He then joined the UCI Continental Team Ningxia Sports Lottery until 31 August 2020 and thereafter the UCI Continental Team Apple Team from 1 January 2021 to 15 February 2021.

C. The alleged anti-doping rule violation

1. The Facts and the Collection of the Sample

7. On 17 November 2019, the Rider provided a urine sample during the 2019 Tour of Fuzhou, China (Sample Number 4460586). The Rider confirmed on his Doping Control Form that the sample had been taken in accordance with the applicable regulations.

2. The Analysis of the Sample and further Sample Collections

8. The analysis of the Rider’s sample was conducted by the World Anti-Doping Agency (hereinafter referred to as “WADA”) accredited Laboratory of Beijing, China (hereinafter referred to as “the Laboratory”). The latter acknowledged receipt of the sample on 21 November 2019.

9. On 3 April 2020 the Laboratory reported the Rider's A-Sample as an Adverse Analytical Finding (hereinafter referred to as "AAF") for Recombinant Erythropoietin (hereinafter referred to as "rEPO").
10. rEPO is a prohibited substance listed under Section S2 (Peptide Hormones, Growth Factors, Related Substances and Mimetics) of the 2019, 2020 and 2021 versions of the WADA International Standard Prohibited List. According thereto, rEPO is prohibited at all times (in- and out-of-competition).

3. The UCI Results Management Procedure

11. Upon receipt of the AAF on 3 April 2020, the UCI conducted its initial review. UCI sought external advice, including from WADA, to ensure that the AAF has been correctly reported. The COVID-19 pandemic had a significant impact on the conduct of the initial review.
12. On 14 January 2021, the Rider was notified of the AAF for rEPO. Furthermore, the Rider was (i) informed that the UCI would request the opening and analysis of the B-Sample by the Laboratory on 21 January 2021 as part of its initial review. In addition, the Rider (ii) was invited to inform the UCI whether he intended to be present or to have an appointed representative attending the opening and analysis on said date.
13. On 18 January 2021, the Rider informed the UCI that he wished to attend the opening and analysis of the B-Sample, but that due to travel restrictions he could not be in Beijing on 21 January 2021.
14. Following the Rider's letter, the UCI together with the Laboratory and WADA examined the possibility to record the opening and analysis of the B-Sample by video.
15. On 24 March 2021, the UCI informed the Rider that the opening and analysis of the B-Sample would be live streamed as a result of the COVID-19 travelling restrictions and that an independent witness would also be appointed to attend the procedure. The Rider was also informed that such opening and analysis could be performed on either 29 March 2021 or 6 April 2021. The Rider was invited to choose between one of the two dates. Furthermore, the Rider was invited to inform the UCI whether he intended to join the relevant live stream or whether he would finally like to directly attend the opening and analysis of the B-Sample in China after having submitted himself to a mandatory quarantine.
16. On 25 March 2021, the Rider informed the UCI of his wish to have his B-Sample opened and analysed on 6 April 2021 and that he would attend the procedure by live stream.
17. On 30 March 2021, the UCI confirmed to the Rider that the opening and analysis of the B-Sample would take place on 6 April 2021 at 13:30, local time in Beijing, China. The UCI also provided the Rider with the link for the live stream.
18. On 1 April 2021, the UCI reminded the Rider of the scheduled opening and analysis of the B-Sample on 6 April 2021.
19. On 6 April 2021, the opening and analysis of the B-Sample occurred in the presence of an independent witness.
20. On 28 April 2021, the Laboratory's analysis of the B-Sample 4460586 confirmed the presence of exogenous rEPO in the Rider's urine.
21. On 11 June 2021, the UCI informed the Rider of the results of the B-Sample 4460586 analysis and of the assertion of the ADRV in relation to his AAF for rEPO. Furthermore, the UCI imposed a mandatory provisional suspension on the Rider based on Article 7.3 of the UCI ADR 2021 in combination with Article 6.3.1 of the UCI Regulations for Results Management. In the same communication, the Rider was asked to provide his explanations within seven days regarding the presence of rEPO in his body or to immediately admit the ADRV in order to benefit from a reduction of his potential period of

ineligibility in line with Article 10.8.1 of the UCI ADR 2021. The Rider was also informed of his right to obtain the A- and B-Samples' Laboratory Documentation Packages.

22. The UCI also notified the UCI Continental Team Shenzhen Xidesheng Cycling Team, the KCF, the Central Asia Regional Anti-Doping Organization (RADO) and WADA of the above findings.
23. On 18 June 2021, the UCI reminded the Rider of the expiry of the deadline to provide an explanation for the presence of rEPO in his sample.
24. On 19 June 2021, the Rider replied to the UCI by stating that he was in "access zones", that he does not admit the use of rEPO and that "this whole story remains a mystery" to him. He also declared having ended his career, having moved to Russia and having changed his citizenship and lifestyle. He informed the UCI that he does not "see [any] reason to understand this further".
25. On 21 June 2021, the UCI granted a last deadline until 28 June 2021 for the Rider to provide explanations concerning the presence of rEPO in his body or to provide substantial assistance. No reaction was received by the UCI from the Rider.
26. On 16 July 2021, the UCI offered the Rider an Acceptance of Consequences pursuant to Article 8.2 of the UCI ADR 2021. In this letter the UCI proposed a period of ineligibility of seven years to the Rider. The latter was also advised that such proposal was valid for a limited period of time only, i.e. for twenty days (until 5 August 2021). The Rider was also advised that he was not obliged to accept the proposed Acceptance of Consequences, however, that if he did not, the UCI would initiate disciplinary proceedings before the Tribunal in accordance with the UCI ADR 2021.
27. On 2 and 5 August 2021, the UCI reminded the Rider of the expiry of the deadline of the Acceptance of Consequences. The UCI also informed the Rider that the deadline to accept the proposal would not be extended any further. The Rider did not react to the letters.
28. On 11 August 2021, the UCI informed the Rider that the Acceptance of Consequences had now expired. The UCI afforded the Rider, however, a final opportunity to agree to a period of ineligibility of eight years by means of an Acceptance of Consequences before referring the matter to the Tribunal for consideration and decision.
29. On 18 August 2021, the UCI reminded the Rider of the expiry of the validity of the Acceptance of Consequences on the same day. The Rider did not respond to the letter.

III. PROCEDURE BEFORE THE TRIBUNAL

30. In accordance with Article 13.1 of the ADT Rules, the UCI has initiated proceedings before this Tribunal through the filing of a Petition to the Secretariat on 4 October 2021. In its Petition the UCI has filed the following requests:
 - *Declaring that Mr Ilya Davidenok has committed a second Anti-Doping Rule Violation.*
 - *Imposing on Mr Ilya Davidenok a Period of Ineligibility of eight years, commencing on the date of the Tribunal's decision.*
 - *Holding that the period of provisional suspension served by Mr Ilya Davidenok since 11 June 2021 shall be deducted from the Period of Ineligibility imposed by the Tribunal.*
 - *Disqualifying all results obtained by Mr Ilya Davidenok at the 2019 Tour of Fuzhou and any other result obtained between 17 November 2019 und 11 June 2021.*
 - *Condemning Mr Ilya Davidenok to pay a fine of [REDACTED].*
 - *Condemning Mr Ilya Davidenok to pay the costs of results management by the UCI (CHF 2'500.00) and the costs of the B-Sample 4460586 analysis (USD 1'300.00).*

31. On 5 October 2021, the Secretariat of the Tribunal appointed Prof. Ulrich Haas to act as Single Judge in the proceedings in application of Article 14.1 of the of the ADT Rules.
32. On the same day, and in application of Article 14.4 of the ADT Rules, the Secretariat of the Tribunal informed the Rider that disciplinary proceedings had been initiated against him and that Prof. Ulrich Haas had been appointed as Single Judge of the Tribunal. Furthermore, the Rider was informed by registered and electronic mail that he would be granted a deadline until 20 October 2021 to submit his Statement of Defence in conformity with Articles 16.1 and 18 of the ADT Rules.
33. On 21 October 2021, the Secretariat of the Tribunal noted that the Rider had not submitted any Statement of Defence within the stated deadline. The Rider was granted a final grace period until 1 November 2021 to file his Statement of Defence. Furthermore, he was advised that should he again fail to submit an answer, *“the proceedings shall be closed, and the Single Judge shall render his judgment on the basis of the documentation on file.”*
34. On 3 November 2021, the Secretariat of the Tribunal noted that the Rider had failed to submit any Statement of Defence to the Petition.
35. On 4 November 2021, the Secretariat of the Tribunal advised the Parties that the Rider had failed to submit his Statement of Defence within the stated deadline and that, therefore, the Single Judge shall render his Judgment in due course on the basis of the documentation on file.
36. On 30 November 2021, the Secretariat on behalf of the Single Judge invited the UCI to comment on the delays related to the results management in the case at hand (ca. 22.5 months from sample collection until the filing of the Petition) by 9 December 2021.
37. On 8 December 2021, the UCI provided its observations related to the Tribunal’s letter dated 30 November 2021.
38. With letter dated the 9 December 2021, the Secretariat acknowledged receipt of the UCI’s submissions and invited the Rider to comment on them by 20 December 2021.
39. No comments were received from the Rider within the prescribed deadline.

IV. APPLICABLE RULES

40. Article 27 of the UCI ADR 2021 provides the following:

“27.1 These Anti-Doping Rules shall apply in full as of 1 January 2021 (the “Effective Date”).

27.2 Any anti-doping rule violation case which is pending as of the Effective Date and any anti-doping rule violation case brought after the Effective Date based on an anti-doping rule violation which occurred prior to the Effective Date shall be governed by the substantive anti-doping rules in effect at the time the alleged anti-doping rule violation occurred, and not by the substantive anti-doping rules set out in the Anti-Doping Rules or the Code, unless the panel hearing the case determines the principle of “lex mitior” appropriately applies under the circumstances of the case.[...]”

41. Considering that the Rider’s sample was collected on 17 November 2019, i.e. prior to the Effective Date, but has been brought forward by the UCI as an alleged ADRV on 4 October 2021, i.e. after such Effective Date, the present ADRV shall be governed by the substantive anti-doping rules in effect at the time when the alleged ADRV occurred, namely the UCI ADR 2015 and the International Standards for Testing and Investigation (ISTI) and the International Standard for Laboratories (hereinafter referred to as the “ISL”) applicable in 2019 and 2020. An exception of the above may be warranted where the Single Judge determines that the *lex mitior* principle applies.

42. As for the procedural rules applicable before the Tribunal, Article 36 of the ADT Rules provides the following:

“These Rules come into force on 4 February 2021 and apply to all procedures initiated by the Tribunal on or after such date.”

43. Considering that the present proceeding had been initiated by the Tribunal on 4 October 2021, the ADT Rules in force in 2021 apply in this case.

V. PROCEDURAL ISSUES

44. The Petition filed by the UCI is admissible. Pursuant to Article 2 of the ADT Rules, the UCI offered the Rider an Acceptance of Consequences in accordance with Article 8.2.1 of the UCI ADR. Despite multiple opportunities granted the Rider did not react to the UCI’s proposals to settle the dispute. Thus. The UCI was entitled to file the Petition that – in addition – conforms to the prerequisites of Article 13.2 of the ADT Rules.

45. The Rider did not file a Statement of Defence within the prescribed deadlines nor did he participate in any other way in these proceedings. The Single Judge verified whether the Rider was properly notified and notes that Article 16.2 of the ADT Rules provides as follows:

“If the Defendant fails to submit its answer within the set deadline, the Single Judge may nevertheless proceed with the case and render his Judgment.”

46. Consequently, the Single Judge proceeds with the case and decides the matter based on the submissions on file.

VI. JURISDICTION

47. The jurisdiction of the Tribunal follows from Article 8.2 of the UCI ADR 2015 and Article 3.1 of the ADT Rules according to which *“the Tribunal shall have jurisdiction over all matters in which an anti-doping rule violation is asserted by the UCI based on a results management or investigation process under Article 7 ADR”*.

48. Furthermore, Article 3.2 of the ADT Rules provides the following:

“Any objection to the jurisdiction of the Tribunal shall be brought to the Tribunal’s attention within 7 days upon notification of the initiation of the proceedings. If no objection is filed within this time limit, the Parties are deemed to have accepted the Tribunal’s jurisdiction.”

49. Neither party raised any objection to the jurisdiction of the Tribunal within said time limit, thus the Single Judge confirms the jurisdiction of the Tribunal.

50. Part C of the Introduction of the UCI ADR 2015 addresses its scope of application as follows:

“These Anti-Doping Rules shall apply to the UCI and to each of its National Federations. They shall apply to the following Riders, Rider Support personnel and other Persons: a) any License Holder,[...]”

51. Said conditions are fulfilled in the case at hand. The Rider was a UCI cycling License Holder in 2019 within the meaning of the UCI ADR and, thus, bound by the UCI ADR at the relevant time.

52. According to Article 7.11 of the UCI ADR 2015 the UCI retains jurisdiction to complete the results management process despite a cyclist’s retirement:

“7.11 If a Rider or other Person retires while a results management process is underway, the UCI retains jurisdiction to complete its results management process. If a Rider or other Person retires before any results management process has begun, the UCI retains authority to conduct results

management if it would have had results management authority over the Rider or other Person at the time the Rider or other Person committed the asserted antidoping rule violation.”

VII. THE FINDINGS OF THE SINGLE JUDGE

53. The main issues for the Single Judge to decide are:

- A) Did the UCI establish that the Rider committed an ADRV within the meaning of Articles 2.1 of the UCI ADR 2015? and, if so,
- B) Did the Rider act intentionally?
- C) What are the appropriate consequences of such an ADRV?

A. Did the UCI establish that the Rider committed an ADRV within the meaning of Articles 2.1 of the UCI ADR?

54. The relevant urine sample of the Rider (sample number 4460586) was collected on 17 November 2019 during the 2019 Tour of Fuzhou, China.

1. The applicable provisions

55. Article 26 of the ADT Rules provides that “[...] *the Single Judge shall apply the [UCI] ADR and the standards referenced therein as well as the UCI Constitution, the UCI Regulations and, subsidiarily, Swiss law*”.

56. Article 2.1 of the UCI ADR 2015 defines the relevant ADRV as follows:

“2.1 Presence of a Prohibited Substance or its Metabolites or Markers in a Rider’s Sample

2.1.1 It is each Rider’s personal duty to ensure that no Prohibited Substance enters his or her body. Riders are responsible for any Prohibited Substance or its Metabolites or Markers found to be present in their Samples. Accordingly, it is not necessary that intent, Fault, Negligence or knowing Use on the Rider’s part be demonstrated in order to establish an anti-doping rule violation under Article 2.1.

[Comment to Article 2.1.1: An anti-doping rule violation is committed under this Article without regard to a Rider’s Fault. This rule has been referred to in various CAS decisions as “Strict Liability”. A Rider’s Fault is taken into consideration in determining the Consequences of this anti-doping rule violation under Article 10. This principle has consistently been upheld by CAS.]

2.1.2 Sufficient proof of an anti-doping rule violation under Article 2.1 is established by any of the following: presence of a Prohibited Substance or its Metabolites or Markers in the Rider’s A Sample where the Rider waives analysis of the B Sample and the B Sample is not analyzed; or, where the Rider’s B Sample is analyzed and the analysis of the Rider’s B Sample confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the Rider’s A Sample; or, where the Rider’s B Sample is split into two bottles and the analysis of the second bottle confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the first bottle.

[Comment to Article 2.1.2: The Anti-Doping Organization with results management responsibility may, at its discretion, choose to have the B Sample analyzed even if the Rider does not request the analysis of the B Sample.]

2.1.3 Excepting those substances for which a quantitative threshold is specifically identified in the Prohibited List, the presence of any quantity of a Prohibited Substance or its Metabolites or Markers in a Rider’s Sample shall constitute an anti-doping rule violation.

2.1.4 As an exception to the general rule of Article 2.1, the Prohibited List or other International Standards or UCI Regulations incorporated in these Anti-Doping Rules may establish special criteria for the evaluation of Prohibited Substances that can also be produced endogenously.”

57. As to the burden and standard of proof, Article 3.1 of the UCI ADR 2015 reads as follows:

“The UCI shall have the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether the UCI has established an anti-doping rule violation to the comfortable satisfaction of the hearing panel, bearing in mind the seriousness of the allegation which is made. This standard of proof in all cases is greater than a mere balance of probability but less than proof beyond a reasonable doubt. Where these Anti-Doping Rules place the burden of proof upon the Rider or other Person alleged to have committed an anti-doping rule violation to rebut a presumption or establish specified facts or circumstances, the standard of proof shall be by a balance of probability.”

58. As to the methods of establishing facts and presumptions, Article 3.2 of the UCI ADR 2015 provides:

“Facts related to anti-doping rule violations may be established by any reliable means, including admissions. The following rules of proof shall be applicable in doping cases:

[Comment to Article 3.2: For example, the UCI may establish an anti-doping rule violation under Article 2.2 based on the Rider’s admissions, the credible testimony of third Persons, reliable documentary evidence, reliable analytical data from either an A or B Sample as provided in the Comments to Article 2.2, or conclusions drawn from the profile of a series of the Rider’s blood or urine Samples, such as data from the Athlete Biological Passport.]

3.2.1 *Analytical methods or decision limits approved by WADA after consultation within the relevant scientific community and which have been the subject of peer review are presumed to be scientifically valid. Any Rider or other Person seeking to rebut this presumption of scientific validity shall, as a condition precedent to any such challenge, first notify WADA of the challenge and the basis of the challenge.*

CAS on its own initiative may also inform WADA of any such challenge. At WADA’s request, the CAS panel shall appoint an appropriate scientific expert to assist the panel in its evaluation of the challenge. Within 10 days of WADA’s receipt of such notice, and WADA’s receipt of the CAS file, WADA shall also have the right to intervene as a party, appear amicus curiae, or otherwise provide evidence in such proceeding.

3.2.2 *WADA-accredited laboratories, and other laboratories approved by WADA, are presumed to have conducted Sample analysis and custodial procedures in accordance with the International Standard for Laboratories. The Rider or other Person may rebut this presumption by establishing that a departure from the International Standard for Laboratories occurred which could reasonably have caused the Adverse Analytical Finding.*

If the Rider or other Person rebuts the preceding presumption by showing that a departure from the International Standard for Laboratories occurred which could reasonably have caused the Adverse Analytical Finding, then the UCI shall have the burden to establish that such departure did not cause the Adverse Analytical Finding.

[Comment to Article 3.2.2: The burden is on the Rider or other Person to establish, by a balance of probability, a departure from the International Standard for Laboratories that could reasonably have caused the Adverse Analytical Finding. If the Rider or other Person does so, the burden shifts to the UCI to prove to the comfortable satisfaction of the hearing panel that the departure did not cause the Adverse Analytical Finding.]

3.2.3 *Departures from any other rule set forth in these Anti-Doping Rules, or any International Standard or UCI Regulation incorporated in these Anti-Doping Rules which did not cause*

an Adverse Analytical Finding or other anti-doping rule violation shall not invalidate such evidence or results. If the Rider or other Person establishes a departure from any other rule set forth in these Anti-Doping Rules, or any International Standard or UCI Regulation incorporated in these Anti-Doping Rules which could reasonably have caused an anti-doping rule violation based on an Adverse Analytical Finding or other anti-doping rule violation, then the UCI shall have the burden to establish that such departure did not cause the Adverse Analytical Finding or the factual basis for the anti-doping rule violation.”

2. The burden and standard of proof

59. It follows from Article 3.1 of the UCI ADR 2015 that the UCI bears the burden of proof to establish that the Rider committed a violation under Article 2.1 of the UCI ADR 2015. The ADRV of the Rider must be established to the “comfortable satisfaction” of the Tribunal, bearing in mind the seriousness of the allegation, which is made. This standard of proof in all cases is greater than a mere balance of probability but less than proof “beyond any reasonable doubt”.
60. According to Article 3.2.2 of the UCI ADR 2015 “*WADA-accredited Laboratories...are presumed to have conducted sample analysis and custodial procedures in accordance with the International Standard for Laboratories*”. The Rider or other Person may rebut this presumption by establishing that a deviation from the International Standard for Laboratories occurred which could reasonably have caused the AAF. If the Rider or other Person rebuts the preceding presumption by showing that a departure from the International Standard for Laboratories occurred which could reasonably have caused the AAF, then the UCI shall have the burden to establish that such departure did not cause the AAF.

3. The Presence of prohibited substance

61. Article 2.1 of the UCI ADR 2015 incorporates the principle of strict liability. According thereto (Appendix 1 of the UCI ADR 2015) “*it is not necessary that intent, Fault, Negligence, or knowing Use on the Rider’s part be demonstrated by the Anti- Doping Organization in order to establish an anti-doping rule violation*”. Thus, sufficient proof of an ADRV is established – *inter alia* – by the “*presence of a Prohibited Substance or its Metabolites or Markers in the Rider’s A Sample where the Rider waives the analysis of the B sample and the B Sample is not analyzed; or, where the Rider’s B Sample is analyzed and the analysis of the Rider’s B Sample confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the Rider’s A Sample*” (cf. Article 2.1.2 of the UCI ADR 2015). According to Article 6.1 of the UCI ADR 2015 the analysis must be conducted by a WADA-accredited Laboratory or a Laboratory otherwise approved by WADA.
62. In the case at hand, the A- and the B-Sample collected from the Rider on 17 November 2019 were analyzed by the Laboratory, which is WADA-accredited. The analysis of the A-Sample revealed the presence of exogenous rEPO. The B-Sample analysis confirmed the presence of rEPO found in the Rider’s A-Sample. Consequently, according to Article 2.1.2 of the UCI ADR 2015, there is sufficient proof of an ADRV under Article 2.1 UCI ADR 2015.
63. In the case at hand, the UCI has discharged its burden of proof that an ADRV has been committed by the Rider by submitting the respective analyses reports for the A- and the B-Sample. Consequently, the burden of proof shifts to the Rider to rebut this presumption by showing on a balance of probabilities that (i) there was a departure from the ISL; and (ii) that such departure could have reasonably caused the AAF (see Article 3.2.2 of the UCI ADR 2015).
64. In conclusion, the Single Judge holds that the UCI successfully established that the Rider committed a violation of Article 2.1 of the UCI ADR 2015.

4. No Challenge of the analytical methods

65. If a Rider wishes to rebut the presumption of scientific validity of the analytical method for detecting the presence rEPO, he is required under the UCI ADR 2015 to first notify WADA of the challenge and the basis of the challenge (see Article 3.2.1 UCI ADR 2015).
66. In the case at hand, no such challenge has been filed by the Rider. Therefore, in the context of this decision the analytical methods used by the Laboratory on the Rider's Sample are presumed to be valid.

5. No Challenge of the analytical results

a) The position of the Rider

67. The Rider has not participated in these proceedings. However, in his prior correspondence with the UCI (email of 18 January 2021) the Rider denied the use of doping, however without providing further explanations.
68. With email of 19 June 2021 the Rider submitted as follows:

"... I do not admit the use of epo, for me this whole story remains a mystery. Last year I made a decision to end my career, moved to live in Russia, changed my citizenship, changed my lifestyle. Therefore, I see no reason to understand this further."

b) The position of the UCI

69. The UCI submits that the above objections by the Rider are unsubstantiated and do not rebut the presumptions in Article 3.2.2 of the UCI ADR 2015.

c) The position of the Single Judge

70. According to Article 3.2.2 of the UCI ADR 2015 "*WADA-accredited Laboratories...are presumed to have conducted sample analysis and custodial procedures in accordance with the International Standard for Laboratories*". The Rider or other person may rebut this presumption by establishing – on a balance of probability – that a deviation from the ISL occurred which could reasonably have caused the AAF.
71. The above prerequisites have further been specified in the jurisprudence of the Court of Arbitration for Sport (hereinafter referred to as "CAS"). The CAS Panel in 2013/A/3112 found in this respect as follows (para. 85):

"Therefore, the Panel deems a mere reference to a departure from the ISL insufficient, in the absence of a credible link of such departure to a resulting Adverse Analytical Finding. In other words, in order for an athlete to meet his/her burden and thus effectively shift the burden to an anti-doping organization, the athlete must establish, on the balance of probabilities, (i) that there is a specific (not hypothetical) departure from the ISL; and (ii) that such departure could have reasonably, and thus credibly, caused a misreading of the analysis. Further, the Panel remarks that such athlete's rebuttal functions only to shift the burden of proof to the anti-doping organization, which may then show, to the Panel's comfortable satisfaction, that the departure did not cause a misreading of the analysis."

72. The Single Judge notes that the Rider in the case at hand has not contested the presence at rEPO in the relevant Samples nor challenged the Laboratory analysis or the results of the analysis. The Rider, more particularly, did not refer to any provision in the International Standards that might have been breached by the Laboratory in the context of the analytical procedure. To conclude, the Single Judge finds that the Rider has not substantiated the Laboratory's lack of reliability in order to rebut the presumption enshrined in Article 3.2.2 of the UCI ADR 2015.

73. The Single Judge is also aware of Article 4.2 of the International Standard for Results Management (hereinafter referred to as “the ISRM”) that provides as follows:

“In the interest of fair and effective sport justice, anti-doping rule violations should be prosecuted in a timely manner. Irrespective of the type of anti-doping rule violation involved, and save for cases involving complex issues or delays not in the control of the Anti-Doping Organization (e.g. delays attributable to the Athlete or other Person), Anti-Doping Organizations should be able to conclude Results Management (including the Hearing Process at first instance) within six (6) months from the notification as per Article 5 below.”

74. The ISRM entered into force on 1 January 2021. It is, thus, questionable whether the ISRM applies to the sample in question that was collected in 2019. The Single Judge can leave this question unanswered because cases involving rEPO are complex issues. Furthermore, the delays were partly caused by issues not under the control of the UCI. The latter explained in its letter dated 9 December 2021 that “the COVID-19 Pandemic had significant impact on the conduct of the initial review and also on the organization of the B Sample opening and analysis at the Laboratory’s premises”. Finally, even if the principle enshrined in Article 4.2 of the ISRM was applicable to results management procedures initiated before 2021, nothing in the file indicates that a departure from that principle “could have caused the analytical findings”. Consequently, the Single Judge finds that the analytical results are reliable.
75. This is true irrespective of the principle *iura novit curia* or *iura novit arbiter*, since it is commonly accepted that the Rider is under the obligation to substantiate his submissions, i.e. that he “*must fulfill some minimum conditions when presenting the facts of the case.*”¹ It is clear to the Single Judge that this (low) threshold has not been met in the case at hand.
76. In conclusion, the Single Judge is comfortably satisfied that the UCI has discharged its burden of proof to establish that the Rider has committed an ADRV pursuant to Article 2.1 of the UCI ADR 2015. Therefore, the Single Judge accepts that the Rider committed an ADRV within the meaning of Article 2.1 of the UCI ADR.

B. Did the Rider commit the ADRV intentionally?

77. In case of a first violation, Article 10.2 of the UCI ADR 2015 differentiates between intentionally and non-intentionally committed ADRVs. The provision reads as follows:

10.2.1 The period of Ineligibility shall be four years where:

10.2.1.1 The anti-doping rule violation does not involve a Specified Substance, unless the Rider or other Person can establish that the anti-doping rule violation was not intentional.

10.2.1.2 The anti-doping rule violation involves a Specified Substance and the UCI can establish that the anti-doping rule violation was intentional.

10.2.2 If Article 10.2.1 does not apply, the period of Ineligibility shall be two years.

78. In the case at hand, rEPO is a non-specified substance. Accordingly, Article 10.2.1.1 of the UCI ADR 2015 provides that the standard period of ineligibility is four years, if the Rider cannot establish that the ADRV was not intentionally committed.

1. The term “intentional”

79. The term “intentional” is defined in Article 10.2.3 of the UCI ADR 2015. The provision provides as follows:

¹ See ADT 05.2016 and 02.2017, *UCI v. Kocjan*, judgment of 28 June 2017, para. 73; ADT 05.2017, *UCI v. Pinho*, judgment of 15 August 2017, para. 88.

“As used in Articles 10.2 and 10.3, the term “intentional” is meant to identify those Riders who cheat. The term therefore requires that the Rider or other Person engaged in conduct which he or she knew constituted an anti-doping rule violation or knew that there was a significant risk that the conduct might constitute or result in an anti-doping rule violation and manifestly disregarded that risk. An anti-doping rule violation resulting from an Adverse Analytical Finding for a substance which is only prohibited In-Competition shall be reputably presumed to be not intentional if the Substance is a Specified Substance and the Rider can establish that the Prohibited Substance was Used Out-of-Competition. An anti-doping rule violation resulting from an Adverse Analytical Finding for a substance which is only prohibited In-Competition shall not be considered intentional if the substance is not a Specified Substance and the Rider can establish that the Prohibited Substance was Used Out-of-Competition in a context unrelated to sport performance.”

2. The burden of proof and the standard of proof

80. The Rider bears the burden to prove that the ADRV was not committed intentionally pursuant to Article 10.2.1.1 of the UCI ADR 2015.
81. The applicable standard of proof in relation to whether or not the ADRV (involving a non-specified substance) was committed not intentionally is the balance of probability (as per Article 3.1 of the UCI ADR 2015). Accordingly, the Rider must convince the Single Judge that the version of events presented by him appears more likely than not. The Single Judge will accept that the Rider did not act intentionally, if he is persuaded by more than 50%.²

3. The position of the Rider

82. With email of 18 January 2021 the Rider denies the use of doping and with email of 19 June 2021 he does “not admit the use of epo”. No further explanations are provided by the Rider.

4. Position of the UCI

83. The UCI states that the Rider bears the burden of proof for establishing, by a balance of probability, that the ADRV was not committed intentionally.

5. The position of the Single Judge

84. The Rider denies having used doping substances, more particularly rEPO. However, he did not submit any evidence in support of his submissions. The Rider neither established the source of the AAF nor did he establish the existence of other circumstances, which allows the Single Judge to conclude that the Rider acted without intent. The Single Judge further notes that – in view of the specificity of the prohibited substance in question – the chances of an inadvertent use of rEPO by the Rider are practically non-existent. The Single Judge is also aware of the constant jurisprudence of the CAS and the Tribunal according to which mere assertions or denials are, in principle, not sufficient to establish the lack of intention.³
85. Consequently, the Single Judge concludes that the Rider has failed to meet his burden of proof to establish a lack of intention. Thus, the Single Judge is of the view that the Rider committed the ADRV intentionally.

² CAS 2009/A/1926 & 1930, *ITF v. Richard Gasquet & WADA v. ITF & Richard Gasquet*, para. 31; CAS 2011/A/2384 & CAS 2011/A/2386, *UCI v. Alberto Contador & RFEC / WADA v. Alberto Contador & RFEC*, para. 55 et seq; Björn Hessert, «Fehlleistung des CAS im Dopingverfahren Jarrion Lawson», *Causa Sport*, 2020, 155 (158).

³ CAS 2016/A/4377 *WADA v. IWF and Yenny Fernance Alvarez Caicedo*, § 52.

C. What are the appropriate consequences of such an ADRV?

1. Period of Ineligibility

a) Second ADRV

86. In the case at hand, the ADRV relating to rEPO constitutes the Rider's second ADRV. The first ADRV for which the Rider was sanctioned with a period of ineligibility of two years (starting on 16 October 2014) took place during the required ten-year period (see Article 10.7.5 of the UCI ADR 2015). In case of a second ADRV, Article 10.7.1 of the UCI ADR 2015 states that the period of Ineligibility shall be the greater of:

"a) six months;

b) one-half of the period of Ineligibility imposed for the first anti-doping rule violation without taking into account any reduction under Article 10.6; or

c) twice the period of Ineligibility otherwise applicable to the second anti-doping rule violation treated as if it were a first violation, without taking into account any reduction under Article 10.6."

87. In order to fix the appropriate period of ineligibility, the Single Judge must first determine the period of ineligibility otherwise applicable to the ADRV, if the latter were a first violation. Article 10.2 of the UCI ADR 2015 provides for a first ADRV as follows:

10.2.1 "The period of Ineligibility shall be four years where:

10.2.1.1 The anti-doping rule violation does not involve a Specified Substance, unless the Rider or other Person can establish that the anti-doping rule violation was not intentional."

88. Considering that rEPO is not a Specified Substance and that the Rider acted intentionally, the appropriate period of ineligibility (in case the ADRV is treated as a first offence) would be four years. Consequently, the period of ineligibility according to Article 10.7.5 UCI ADR 2015 is eight years.

b) Lex mitior

89. The sanctioning regime under the UCI ADR 2021 is somewhat different from the UCI ADR 2015. The principle of *lex mitior*, a concept originally deriving from criminal law, is well-established in CAS jurisprudence (cf. CAS 94/128, CAS 2009/A/1918, CAS 2017/O/4980, CAS 2018/A/5989) and before the Tribunal. It applies when a federation, associations or sports-related bodies amends its rules and regulations between the time of the asserted sports rule violation and the time of the decision taken by the relevant sports body in respect thereof. The principle of *tempus regit actum* is then softened by the *lex mitior* principle in a case where the new rules are more favourable to the accused. In such circumstances the less severe "penalties" and "sanctions" will be applied retroactively. The principle of *lex mitior* serves the purpose of sanctioning the person who has committed a violation reflecting the current opinion of the sports body that a milder sanction should apply to such violation than the one applicable at the time of its commission, and therefore under the principle of *lex mitior* may be applied to this case.

90. The above principle also follows from Article 27.2 of the UCI ADR 2021, which state as follows:

"Any anti-doping rule violation case which is pending as of the Effective Date and any anti-doping rule violation case brought after the Effective Date based on an anti-doping rule violation which occurred prior to the Effective Date shall be governed by the substantive anti-doping rules in effect at the time the alleged anti-doping rule violation occurred, and not by the substantive anti-doping rules set out in these Anti-Doping Rules or the Code, unless the panel hearing the case determines the principle of "lex mitior" appropriately applies under the circumstances of the case. For these purposes, the retrospective periods in which prior violations can be considered for purposes of multiple violations under Article 10.9.4 and the statute of limitations set forth in Article 17 are

procedural rules, not substantive rules, and should be applied retroactively along with all of the other procedural rules in these Anti-Doping Rules or the Code (provided, however, that Article 17 shall only be applied retroactively if the statute of limitations period has not already expired by the Effective Date)."

91. The question, thus, is whether the UCI ADR 2021 is more favorable with respect to sanctions than the UCI ADR 2015. Article 10.9.1 of the UCI ADR 2021 reads as follows:

"10.9.1.1 For a Rider or other Person's second anti-doping rule violation, the period of Ineligibility shall be the greater of:

a) A six (6) month period of Ineligibility; or

b) A period of Ineligibility in the range between:

(i) the sum of the period of Ineligibility imposed for the first anti-doping rule violation plus the period of Ineligibility otherwise applicable to the second anti-doping rule violation treated as if it were a first violation, and

(ii) twice the period of Ineligibility otherwise applicable to the second anti-doping rule violation treated as if it were a first violation

The period of Ineligibility within this range shall be determined based on the entirety of the circumstances and the Rider or other Person's degree of Fault with respect to the second violation."

92. The application of Article 10.9.1.1 UCI ADR 2021 to the case results in a range of sanctions between six to eight years. Thus, unlike the UCI ADR 2015, the UCI ADR 2021 do not provide for a fixed period of ineligibility of eight years. The flexibility provided for under the UCI ADR 2021 is, in principle, more favorable than the period of ineligibility provided for under the UCI ADR 2015.

c) Fixing the appropriate period of ineligibility within the applicable range

93. According to Article 10.9.1 of the UCI ADR 2021 the period of ineligibility within the stated range shall be determined based on the entirety of the circumstances and the Rider's degree of fault with respect to the second violation.

94. The Single Judge notes that the Rider in the case at hand acted intentionally. Furthermore, the Single Judge observes that the Rider has not submitted any evidence which could possibly be taken into consideration when assessing his degree of fault. In addition, the Rider has not participated in these proceedings and has not helped to cast any light onto the circumstances of this case. Therefore, the Single Judge finds that a period of ineligibility of eight years seems appropriate.

d) Commencement date of the Period of Ineligibility and Credit for provisional Suspension

95. In relation to the commencement of the period of ineligibility, Article 10.11 of the UCI ADR 2015 provides as follows:

"Except as provided below, the period of Ineligibility shall start on the date of the final hearing decision providing for Ineligibility or, if the hearing is waived or there is no hearing, on the date Ineligibility is accepted or otherwise imposed. [...]"

10.11.1 Where there have been substantial delays in the hearing process or other aspects of Doping Control not attributable to the Rider or other Person, the UCI may start the period of Ineligibility at an earlier date commencing as early as the date of Sample collection or the date on which another anti-doping rule violation last occurred. All competitive results achieved during the period of Ineligibility, including retroactive Ineligibility, shall be Disqualified. [...]"

10.11.3.1 If a Provisional Suspension is imposed and respected by the Rider or other Person, then the Rider or other Person shall receive a credit for such period of Provisional Suspension against any period of Ineligibility which may ultimately be imposed. If a period of Ineligibility is served pursuant to a decision that is subsequently appealed, then the Rider or other Person shall receive a credit for such

period of Ineligibility served against any period of Ineligibility which may ultimately be imposed on appeal. [...]"

96. Thus, as a general rule, the period of ineligibility shall start on the date of the final decision imposing such ineligibility, with credit given for the period of any provisional suspension if and to the extent it was respected by the Rider. On 11 June 2021, the Rider was informed of a mandatory provisional suspension imposed on him. There is no indication on file that the Rider did not observe the terms of such suspension. The Single Judge, thus, finds that the Rider must receive credit for the time so served.
97. The Single Judge further observes that there have been delays in the hearing process. The sample was collected on 17 November 2019 and the results of the analysis were reported to the UCI on 3 April 2020. The UCI then initiated its internal review process that lasted until 14 January 2021, i.e. the day on which the Rider was notified of the AAF. The Single Judge finds that such delay is substantial. The explanation for the delay provided by the UCI in its letter dated 8 December 2021 is that the COVID-19 pandemic had a considerable impact on the process and that it was dependent on external advice – in particular from WADA – to determine whether the analysis by the Laboratory had been performed correctly. Clearly all these circumstances are outside the UCI's sphere of responsibility. However, in order for Article 10.11.1 UCI ADR 2015 to apply, the delays need not be imputable to the UCI. Instead, it suffices that the delays in the hearing process are not attributable to the Rider. The Single Judge finds that this is clearly the case here. The Single Judge, therefore, decides that the period of ineligibility shall start on the day the Laboratory reported the AAF to the UCI, i.e. on 3 April 2020. Consequently, all competitive results achieved between 3 April 2020 and 11 June 2021, i.e. the date of the provisional suspension, are disqualified.

2. Disqualification

98. According to Article 9 of the UCI ADR 2015, an ADRV in connection with an In-Competition test automatically leads to Disqualification of the result obtained in that Competition with all resulting Consequences, including forfeiture of any medals, points and prizes.
99. The term "Competition" is defined in the Appendix 1 of the UCI ADR 2015 as, inter alia, a "single race organized separately (for example [...] a stage in a stage race)". Thus, the Rider's results in stage 1 (held on 17 November 2019) of the 2019 Tour of Fuzhou shall automatically be disqualified.
100. Furthermore, Article 10.1 of the UCI ADR 2015 reads as follows:

"An anti-doping rule violation occurring during or in connection with an Event may, upon the decision of the ruling body of the Event, lead to Disqualification of all of the Rider's individual results obtained in that Event with all Consequences, including forfeiture of all medals, points and prizes, except as provided in Article 10.1.1."

Factors to be included in considering whether to Disqualify other results in an Event might include, for example, the seriousness of the Rider's anti-doping rule violation and whether the Rider tested negative in the other Competitions.

10.1.1 If the Rider establishes that he or she bears No Fault or Negligence for the violation the Rider's individual results in the other Competitions shall not be Disqualified, unless the Rider's results in Competitions other than the Competition in which the anti-doping rule violation occurred were likely to have been affected by the Rider's anti-doping rule violation.

101. An Event is defined in the Appendix 1 of the UCI ADR 2015 as, inter alia, a "series of Competitions conducted together as a single organization (for example [...] a road stage race)". The 2019 Tour of Fuzhou qualifies as such an Event.
102. Considering the seriousness of the Rider's ADRV (intentional and involving a non-specified substance) and taking into account that the urine sample was collected during the 2019 Tour of Fuzhou, i.e. during

the Event, the Single Judge finds that all of the Rider's results from the 2019 Tour of Fuzhou shall be disqualified.

103. Finally, Article 10.8 of the UCI ADR 2015 provides as follows:

"In addition to the automatic Disqualification of the results in the Competition which produced the positive Sample under Article 9, all other competitive results of the Rider obtained from the date a positive Sample was collected (whether In-Competition or Out-of- Competition), or other anti-doping rule violation occurred, through the commencement of any Provisional Suspension or Ineligibility period, shall, unless fairness requires otherwise, be Disqualified with all of the resulting Consequences including forfeiture of any medals, points and prizes."

104. Therefore, all results obtained – if any – by the Rider between the date of the sample collection on 17 November 2019 until the commencement of the period of ineligibility, i.e. 3 April 2020, are disqualified.

3. Mandatory Fine and Costs under the UCI ADR 2015

105. The UCI requests that the Rider shall pay a fine of [REDACTED].

106. Article 10.10 of the UCI ADR 2015 provides as follows:

"In addition to the Consequences provided for in Article 10.1-10.9, violation under these Anti-Doping Rules shall be sanctioned with a fine as follows.

10.10.1.1 *A fine shall be imposed in case a Rider or other Person exercising a professional activity in cycling is found to have committed an intentional anti-doping rule violation within the meaning of Article 10.2.3.*

[Comments: 1. A member of a Team registered with the UCI shall be considered as exercising a professional activity in cycling. 2: Suspension of part of a period of Ineligibility has no influence on the application of this Article].

The amount of the fine shall be equal to the net annual income from cycling that the Rider or other Person was entitled to for the whole year in which the anti-doping violation occurred. In the Event that the anti-doping violation relates to more than one year, the amount of the fine shall be equal to the average of the net annual income from cycling that the Rider or other Person was entitled to during each year covered by the anti-doping rule violation.

[Comment: Income from cycling includes the earnings from all the contracts with the Team and the income from image rights, amongst others.]

The net income shall be deemed to be 70 (seventy) % of the corresponding gross income. The Rider or other Person shall have the burden of proof to establish that the applicable national income tax legislation provides otherwise. Bearing in mind the seriousness of the offence, the quantum of the fine may be reduced where the circumstances so justify, including:

- 1. Nature of anti-doping rule violation and circumstances giving rise to it;*
- 2. Timing of the commission of the anti-doping rule violation;*
- 3. Rider or other Person's financial situation;*
- 4. Cost of living in the Rider or other Person's place of residence;*
- 5. Rider or other Person's Cooperation during the proceedings and/or Substantial Assistance as per article 10.6.1.*

In all cases, no fine may exceed CHF 1,500,000.

For the purpose of this article, the UCI shall have the right to receive a copy of the full contracts and other related documents from the Rider or other Person, the auditor or relevant National Federation.

[Comment: No fine may be considered a basis for reducing the period of Ineligibility or other sanction which would otherwise be applicable under these Anti-Doping Rules].”

107. The Single Judge notes that Article 10.10.1 of the UCI ADR 2015 is practically identical to Article 10.12.1 of the UCI ADR 2021.
108. According to the information on file, the Rider was under contract with the UCI Continental Team Shenzhen Xidesheng Cycling Team from January 2019 to 31 December 2019, i.e. during the relevant period of time of the second ADRV. According to the Comment to Article 10.10.1 of the UCI ADR 2015, a member of a Team registered with the UCI shall be considered as exercising a professional activity in cycling within the meaning of Article 10.10.1.1 of the UCI ADR 2015. Consequently, the Single Judge applies Article 10.10.1 of the UCI ADR 2015 to the Rider, since he committed the second ADRV intentionally.
109. As provided for under Article 10.10.1.1 of the UCI ADR 2015, the fine shall be equal to the net annual income from cycling that the Rider was entitled to for the whole year in which the ADRV occurred. The net income shall be deemed to be 70% of the corresponding gross income. If justified, the fine may be reduced, depending on the seriousness of the offence and according to the circumstances listed under Article 10.10.1.1. of the UCI ADR 2015.
110. According to the information on file the Rider was entitled to an annual gross income from cycling in the amount of [REDACTED] within the relevant time frame. Therefore, a mandatory fine of [REDACTED] is imposed on the Rider. Article 10.10.1.1 of the UCI ADR 2015 provides that based on certain criteria the quantum of the fine may be reduced. However, there is no element on file which would support a reduction of the fine based on these criteria. In light of the above, the Single Judge sets the financial fine at [REDACTED].
111. The UCI further requests that the Rider pays the costs of the results management conducted by the UCI in the amount of CHF 2'500.00 and the costs of the B-Sample 4460586 analysis in the amount of USD 1'300.00.
112. The Single Judge notes that Article 10.10.2 of the UCI ADR 2015 reads as follows:

10.10.2 Liability for Costs of the Procedures

If the Rider or other Person is found to have committed an anti-doping rule violation, he or she shall bear, unless the UCI Anti-Doping Tribunal determines otherwise:

- 1. The cost of the proceedings as determined by the UCI Anti-Doping Tribunal, if any.*
- 2. The cost of the result management by the UCI; the amount of this cost shall be CHF 2'500, unless a higher amount is claimed by the UCI and determined by the UCI Anti-Doping Tribunal.*
- 3. The cost of the B Sample analysis, where applicable.*
- 4. The costs incurred for Out-of-Competition Testing; the amount of this cost shall be CHF 1'500, unless a higher amount is claimed by the UCI and determined by the UCI Anti-Doping Tribunal.*
- 5. The cost for the A and/or B Sample laboratory documentation package where requested by the Rider.*
- 6. The cost for the documentation package of Samples analyzed for the Biological Passport, where applicable.*

The National Federation of the Rider or other Person shall be jointly and severally liable for its payment to the UCI.

113. The provision in Article 10.10.2 of the UCI ADR 2015 is practically identical to Article 10.12.2 of the UCI ADR 2021. In application of the above provisions, the Single Judge holds that the Rider shall reimburse to the UCI the following amounts:

- CHF 2'500.00 for costs of the results management (Article 10.10.2 (2) of the UCI ADR 2015);
- USD 1'300.00 for B-Sample analysis (Article 10.10.2 (3) of the UCI ADR 2015)

4. Costs of the proceedings

114. Article 29 of the ADT Rules provides as follows:

- 1. The Tribunal shall determine in its judgment the costs of the proceedings as provided under Article 10.12.2 para. 1 ADR.*
- 2. As a matter of principle the Judgment is rendered without costs.*
- 3. Notwithstanding the above, the Tribunal may order the Defendant to pay a contribution toward the costs of the Tribunal. Whenever the hearing is held by videoconference, the maximum participation is CHF 7'500.*
- 4. The Tribunal may also order the unsuccessful Party to pay a contribution toward the prevailing Party's costs and expenses incurred in connection with the proceedings and, in particular, the costs of witnesses and experts. If the prevailing Party was represented by a legal representative the contribution shall also cover legal costs.*

115. In application of Article 29.2 of the ADT Rules, the Single Judge decides that the present Judgment is rendered without costs. In light of all of the circumstances of this case, the Single Judge finds it appropriate to not order the Rider (as the unsuccessful party) to pay a contribution towards the UCI's costs.

VIII. RULING

116. In consideration of all of the above, the Tribunal decides as follows:

- 1. Mr Ilya Davidenok has committed an Anti-Doping Rule Violation.**
- 2. Mr Ilya Davidenok is suspended for a period of ineligibility of 8 years. The period of Ineligibility shall commence on 3 April 2020, and shall end eight years from this date, i.e. 2 April 2028.**
- 3. The results obtained by Mr Ilya Davidenok at the 2019 Tour of Fuzhou and any other result obtained from 17 November 2019 until 11 June 2021 are disqualified.**
- 4. Mr Ilya Davidenok is ordered to pay to the UCI the amount of [REDACTED] as monetary fine.**
- 5. Mr Ilya Davidenok is ordered to pay to the UCI:**
 - a) the amount of CHF 2'500.00 for the costs of the results management; and**
 - b) the amount of USD 1'300.00 for the costs of B-Sample analysis.**
- 6. All other and/or further-reaching requests are dismissed.**
- 7. This judgment is final and will be notified to:**
 - a) Mr Ilya Davidenok;**
 - b) Kazakhstan National Anti-Doping Organization (KazNADC);**
 - c) UCI; and**
 - d) WADA**

117. This Judgment may be appealed before the CAS pursuant Article 31.2 of the ADT Rules and Article 74 of the UCI Constitution. The time limit to file the appeal is governed by the provisions in Article 13.2.5 of the UCI ADR 2021.

Ulrich HAAS
Single Judge